

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Derrick Dakota Stone Kitzmiller,
aka Derrick D. Kitzmiller

Petitioner,

v.

Nanet Barnes,

Respondent.

Case No. 4:20-cv-02264-SAL

ORDER

This matter is before the Court for review of the September 16, 2020 Report and Recommendation (“Report”) of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 11]. In the Report, the Magistrate Judge recommends the Petition for a Writ of Habeas Corpus, ECF No. 1, be dismissed without prejudice and without requiring the Respondent to file a return. [ECF No. 11 p.7]. No party filed objections to this Report, and the time to do so has passed. *See* [ECF No. 11].

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the Court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record

in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the Court finds no clear error, adopts the Report, and incorporates the Report by reference herein. Accordingly, the Petition for a Writ of Habeas Corpus, ECF No. 1, is DISMISSED without prejudice and without requiring the respondent to file a return.

IT IS SO ORDERED.

March 31, 2021
Florence, South Carolina

/s/Sherri A. Lydon
Sherri A. Lydon
United States District Judge